

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re

**CIRCUIT CITY STORES, INC., et al.,
Debtors.**

Chapter 11

Case No. 08-35653 (KRH)

Jointly Administered

**RESPONSE OF CERMAK PLAZA ASSOCIATES, LLC TO
TRUSTEE'S SECOND OMNIBUS OBJECTION TO LANDLORD CLAIMS**

Cermak Plaza Associates, LLC ("Cermak") hereby submits its Response to the Trustee's Second Omnibus Objection to Landlord Claims dated February 25, 2011 (the "Objection"), pursuant to which the Trustee seeks, among other things, to reduce Cermak's claim in this matter from \$129,231.44 to \$78,433.03. Cermak respectfully requests that the Objection be overruled, and that its claim be allowed in the amount of \$117,720.49, and further states as follows:

1. Cermak filed a timely proof of claim in this matter on April 30, 2009 in the amount of \$129,231.44 (the "Cermak Claim"), designated as Claim Number 12809. The Cermak Claim is based on unpaid rent, taxes and CAM charges due in connection with the lease entered into by Circuit City Stores, Inc. ("Circuit City") for a store located in Cermak Plaza, Berwyn, Illinois (the "Cermak Plaza Lease").

2. Filed with this Response is the Declaration of Michael Flight, President of Concordia Realty Management Inc., which is Cermak's managing agent at Cermak Plaza. As set

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forth in the Flight Declaration, the amount of \$117,720.40 remains due to Cermak associated with Circuit.

3. The records attached to the Flight Declaration contradict the Trustee's position in the Objection that the Cermak Claim should be reduced to \$78,433.03 (by deducting \$39,133.73 for administrative rent, \$9,031.58 for prepetition CAM charges and \$2,633.10 for postpetition CAM charges). In fact, (i) the portion of the Cermak Claim constituting administrative rent is less than the amount of the reduction for this item sought by the Trustee (i.e., the Cermak Claim is comprised of only \$25,924.43 in administrative rent, principally due for the month of November 2008), (ii) the postpetition CAM charges sought by Cermak (i.e., \$2,633.10) were incurred in November 2008 when the Cermak Plaza store was still occupied by Circuit City; and (iii) the prepetition CAM charges sought to be deducted from the Cermak Claim were incurred by Circuit City in 2007 and are properly due as prepetition damages under the Cermak Plaza Lease.

4. Any reply by the Debtors or the Trustee to this Response should be directed to the following counsel: Jane W. Arnone, Esq., Benanti & Associates, 350 Bedford Street, Suite 201, Stamford, CT 06901; Telephone (203) 324-9559; Facsimile (203) 358-8582; Email: benanti_associates@msn.com. Such counsel should also be contacted to negotiate any possible resolution of the Objection.

WHEREFORE, Cermak respectfully requests that the Objection be overruled, and that the Cermak Claim be allowed in the amount of \$117,720.40.

Dated: May 6, 2011

CHRISTIAN & BARTON, LLP

/s/ Michael D. Mueller

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CERTIFICATE OF SERVICE

I, Michael D. Mueller, hereby certify that on the 6th day of May 2011, a true and correct copy of the foregoing response has been served electronically using the ECF system on all registered users of the CM/ECF system who have filed notices of appearance in this matter.

/s/ Michael D. Mueller

Michael D. Mueller